



STATE OF WASHINGTON
DEPARTMENT OF LICENSING
PO Box 9020, Olympia, Washington 98507-9020
Washington Real Estate Commission
Meeting Minutes
December 2, 2005

Opening: Vice Chairman Alan Barnard called the regular meeting of the Washington Real Estate Commission to order at 9:05 a.m. on Friday, December 2, 2005, at the Marriott Inn SeaTac, Washington.

Members Present: Alan Barnard, Commissioner/Vice Chair
George Pilant, Commissioner
Jim Carollo, Commissioner
Paul Chiles, Commissioner
Bob Spain, Commissioner
Suki Bazan, Commissioner

Staff Present: Lee Malott, Administrator
Jerry McDonald, Assistant Administrator
Marjorie Hatfield, Secretary Administration
Diane McDaniel, AAG Office

OPEN SESSION

A. Approval of Agenda

The agenda was approved as written and distributed.

B. Approval of Minutes

The minutes of the September 20, 2005 meeting and October 18, 2005 Special Commission meeting were approved as written.

C. Election of Vice Chair

Nominations were accepted for the position of Vice Chairman for the year 2006. Paul Chiles and Alan Barnard were nominated. James Carollo noted that Alan Barnard's term on the commission was up in August 2006, which would result in selection of another vice chair. Alan Barnard noting this possibility respectfully deferred to Paul Chiles for the reason stated. With no further nominations Paul Chiles was elected vice chairman for the year 2006.

D. Selection of 2006 Commission Dates

With the exception of the March 9, 2006, the commission accepted the dates of June 14, September 19, and December 1, 2006. Because the March 9 commission date conflicted with the legislative calendar, it was suggested the meeting date be changed to March 16, 2006. With no further changes, a motion was made to amend the meeting schedule to March 16, 2006 and the other dates to remain. Motion passed.

E. Agenda Items for the 2006 Planning Session

Items to be addressed at the 2006 planning session were discussed. Jerry McDonald noted that strategies for the 18.85 Rewrite would be an ongoing item. Commissioner Barnard asked that agenda items for the 2006 planning session be deferred until the commission has had time to discuss the Z Draft and stakeholder strategies, which would impact the items for the planning session.

F. Presentation and discussion of the Z Draft

Commissioner Carollo reviewed the 5th draft of the proposed 18.85 rewrite. The meeting packet contained a 3-page summary of the proposed changes. Prior to reviewing the summary pages, Commissioner Carollo noted the work of the task force is completed and letters of appreciation and certificates were given to each task force member for their commitment to this project. After some discussion on the proposed titles for brokers and associate brokers, Commissioner Barnard clarified that if substantial input on issues results from stakeholders meetings then it will be incumbent upon the commission to revisit the issues.

Commissioner Spain asked if the commission was open to changing the Z Draft at today's meeting?

Jerry McDonald, Assistant Administrator, noted that it was up to the commission to accept the draft in its current form and take it to the stakeholders. This is still a "discussion draft" and there is still considerable stakeholder work to be done. There was considerable discussion revolving around the concept of "accepting the draft". Jerry reiterated the commission is not approving the rewrite just accepting the work of the task force committee. This is the product of the task force, "a discussion draft". There will be input from stakeholders and also from the legislature that could result in possible changes.

George Pilant, Commissioner, had some concerns regarding consumer protection. Would the increase in supervision and education of licensees actually increased consumer protection. Mr. Pilant also had concerns that corporations and natural persons with "signature authority ..." would not be enough to protect the public. Commissioner Pilant did not think the clause concerning signatory power would be sufficient to motivate builders or other owners to have licensees selling their product. Commissioner Pilant questioned whether the practice of non-licensees selling property, homes, commercial buildings, vacant lots, and condominiums to the public would be curtailed.

Commissioner Pilant noted the September commission minutes reflect the intent of the task force to close the loophole as much as possible. In this situation, there is no jurisdiction for the Department of Licensing or recourse for the consumer to register a complaint with the department as the loophole was not closed but made larger. Commissioner Pilant felt the commission should close the loophole and let stakeholders tell the commission why it should be opened.

Jerry McDonald along with Commissioner Carollo reiterated that the commission is accepting the work of the task force. The information that will be put on the web and disseminated to the stakeholders is the “discussion draft” that has been accepted. The commission could have their own comments and possibly those comments could go with the Z-Draft. Changing the draft would not be appropriate as it is not the work of the task force but the work of the commission.

As a member of the task force, Bob Mitchell noted after two years of discussion, this would be an area of significant discussion as stakeholder work begins. Bob stated this draft is not as definitive as the commission wanted it. The task force struggled with the issue but this recommended language is more restrictive than the current permissive arrangement relative to the interpretations of the department as it relates to those individuals acting on behalf of owners and others. Many other groups are struggling with issues. This piece of legislation should not be made into a situation where the overall hard work of the task force and commission is dead on arrival before the work was even begun.

Glen Hudson, WAR Education Director, suggested that the commission take this product to the stakeholder, listen to the comments, and if necessary come back and revisit the issues. Based on this information the commission might be inclined to make other decisions. The commission should not be taking positions on issues now, by doing so may color the concerns of the stakeholder. The commission is a neutral body. This draft is a product of the task force, and it is incumbent upon the commission to listen to what is said and then produce the product that will go before the legislature.

A motion was made by Commissioner Carollo to accept the task force works in the form of the fifth edition to the Z-Draft to be accepted by the Real Estate Commission. The motion was seconded by Bob Spain. Commissioner Barnard noted that comments as part of the record could go forward to the Director.

Commissioner Pilant asked if his comments could be submitted in writing after the meeting to the Director and the commission?

Jerry McDonald indicated that this was possible. The comments could be attached to the minutes of the meeting, and also a spot on the website could be made for the commissioners’ comments in addition to the Z-Draft.

Commissioner Barnard reiterated the concerns of the task force and noted that all commissioners have misgivings with some of the changes but the commission should be willing to put the draft out to the stakeholders. The stakeholders and the department should “kick it around”. By the time all involved stakeholder groups have discussed and

haggled over every provision of the draft, the commission will need to make a decision at that time to change or accept the product. Commissioner Barnard did not see the need for comments to be added to the draft. The draft is the product of the task force and if the task force has misread something and there is enough input that those affected take issue with any or part of the draft, then it would be appropriate to revisit the draft before the commission puts its final stamp of approval on the product.

Commissioner Bazan agreed with the comments of Commission Barnard but felt strongly that it should be said that the commission has accepted the draft and it is not the final product.

Commissioner Barnard noted the word “discussion” is the key to the draft. When the draft is published it should be noted that this is the decision of the commission to accept the discussion draft and a final decision by the commission will be rendered upon completion of all the stakeholder work. Then the process will be clear to all concerned.

Commissioner Bazan noted the motion should reflect Commissioner Barnard’s above comments that this is a discussion draft and not the final product.

No further discussion the motion was restated that real estate commission accept the Z-Draft as the final work of the task force as a “discussion draft”. The Z Draft will be available to the stakeholders in as many media forms as possible noting the commission is open to all public comments. The commission will review all comments before the final draft submitted. This proposal will go to the legislature as a proposal therefore the commission with the approval of the Attorney Generals Office is the final voice.

No further discussion, the motion carried.

Glen Crellin from the WCRER requested that the amended summary be forwarded to him to be included on the 18.85 Task Force Website.

Commissioner Barnard asked that it be put on record that on behalf of the commission, he would like to extend their heartfelt thanks to the task force members for all the work involved in a very good piece of legislation to take forward to the stakeholders.

G. Discussion of Stakeholder Strategies

Jerry McDonald reviewed the process the department will take in reviewing the WAC. The department will review the WAC, and make recommendations to the commission. Hopefully, the department will have the revisions ready for the March planning session.

Commissioner Barnard noted when the bill goes forward and hearings are ongoing, it is essential that as many folks as possible are up to speed on this piece of legislation so the document has the greatest chance of passing on the first time. A list of the various elements would be involved in stakeholder work was reviewed. Work can begin on some of the items; others will take time to orchestrate. Items suggested were:

- Traveling forum (commissioner/staff/task force representatives)

- Department's Listserv
- Newsletter
- Preprinted speaking points
- Department's Internet site
- Brochures
- Email or Efax
- Contacting affiliated business types (appraisers, mortgage brokers, etc)

Noting there are eight possibilities of communication; some can be started today. Others can be developed and presented at the March meeting. The question proposed to the commission is how to proceed.

Commissioner Carollo noted that all items are possible but will involve a good deal of organization and planning. It is important that all organizations be contacted. Commissioner Carollo suggested that staff come back with a plan. Immediate fixes could include:

- The Z-drafts on the Center website
- Z-Draft on Department website
- Amended summary posted on both websites
- Newsletter, start process
- WAR meeting in March, possible presentation

Commissioner Barnard asked the question if it would be appropriate to have a subcommittee of the commission to work with the department prior to the March meeting in developing strategies. This could be accomplished via a telephone conference call.

Commissioner Pilant asked what has worked in the past for staff and do they have any recommendations now that could be offered for discussion.

Jerry McDonald indicated the idea of a subcommittee would be very helpful as staff is busy. Reflecting that some ideas would take considerable time in planning such as presentations while other items are easily to accomplish.

A suggestion was made that the summary page could be a very powerful tool. An opening paragraph could explain the process reiterating that the commission has accepted the "discussion draft" and it will be presented to the stakeholders before going on to the legislature. The summary could be a link to the department so questions, concerns or ideas could be expressed.

Jerry McDonald indicated that a Q&A page would be fairly easy to develop. The summary information could be phased into a question and answer and this would be a handy source of information. A link to one specific site for questions regarding the Z draft is essential.

Commissioner Jim Carollo suggested that the WCRER is the place to collect all this information. That site has been developed and as the commission has contracted with the

Center. The department could send out a notice to all organizations and licensees that the law is changing and the draft is posted on the Center's website. If individuals want to review the draft, read the summary, or pose questions, the Center's website is available.

Jerry McDonald suggested a dedicated account for all the emails is possible and he will check into the possibility of such an account. Jerry also noted that the 18.85 task force rewrite website was set up primarily for the task force. Now that task force is completed, what does the commission feel is necessary? Should this site be renamed?

Glen Crellin, the Director of the WCRER, suggested that the name of the website be changed. The draft is already on the site but Glenn would like to see an opportunity for stakeholders to post questions or comments relative to the proposed draft. A question type box could be added so the questions could be forwarded to a specific email box. Director Crellin noted that the summary page would be a very useful tool in explaining this process. Glenn felt that a brochure would be effective with the information from the summary sheet and a Q&A formatted into a brochure. This could be accomplished and would be useful a tool for the stakeholders. Glenn is hopeful that once the summary is amended it can be provided to the center and then formatted into a useful tool to be disseminated stakeholders.

Commissioner Carollo felt there was a need to identify the groups where the commission would like to make a personal visit. It will be important to contact as many of those groups as possible.

Commissioner Barnard asked for nominations to work on the subcommittee and suggested that Commissioner Carollo be a part of this subcommittee since he has been on the task force from beginning to end.

Commissioner Carollo volunteered his help and indicated it would be helpful if two other commissioners would serve. Their participation would be of benefit because the more commissioners are involved, the more they will become familiar with the draft. Commissioner Carollo noted it would help to have the involvement of Bob Mitchell, as he was a member of the task force and a great deal of history with the agency. Natalie Danielson an education provider, also volunteered to participate.

Summarizing, Commissioner Barnard asked for the formation of a subcommittee to work over the next 90 days to develop the recommended suggestions of communication to the stakeholders. With the acceptance of the discussion draft, three commissioners and department staff would begin work with other committee members to develop these suggestions. The meetings would be by telephone conferencing so that by the March commission meeting, the commission could approve what is to be accomplished and in what time frame. Jerry McDonald, Jim Carollo, Suki Bazan, Bob Mitchell, Paul Chiles, and Natalie Danielson have volunteered to serve on this committee.

Glen Crellin noted that because of the Center's role in disseminating information through it's website to stakeholders, he would like to serve on the subcommittee as time permits.

Commissioner Barnard asked for a motion to form a subcommittee to be called whatever name the group would suggest, and go forward with these members. The motion was seconded. No further discussion and motion passed.

Commissioner Barnard, reviewing the listed communication suggestions, asked the members to identify items to be included in the committee's work. Stakeholder work will need to progress in a timely manner in order to gather all stakeholder information and meeting deadline dates for submission of the legislation. Commissioner Barnard noted that stakeholder work would continue well after the bill is drafted. Developing the WCRER website with the Q&A and the amended summary will be a good first step in putting the word out. Listserv and the department website also will be utilized in this process.

Commissioner Barnard asked if once the amended summary was finalized, could the Center develop a format for a brochure and forward it to the committee for review and bids by the department.

Jerry McDonald indicated there would be a cost involved, with the money coming from the education fund. Because of the cost of printing and mailing brochures, the brochure could possibly be put on-line.

Commissioner Barnard suggested the revised summary be forwarded to Glen Crellin for inclusion on the center's website. Develop the itinerary and mythology for meetings. The final format for a brochure with cost analysis could be ready for the March meeting.

Commissioner Bazan asked if the summary would be mailed to the licensees? Other than the center's website, listserv, and the department's site, is it possible to mail this information to licensees.

Commissioner Barnard suggested that the subcommittee review this suggestion, as it pertains to printing and cost and bring this information to the March meeting.

Jerry McDonald indicated that the planning session would encompass the discussion draft work and stakeholder strategies.

Commissioner Pilant noted if the committee makes recommendations for stakeholder strategy and wait until the March meeting, the commission may fall short of the date for dropping legislation in the summer. This time frame would only allow for three months of stakeholder comments and to draft legislation. George suggested a possible commission meeting prior the March meeting. It would be beneficial if dates for agency request legislation were available.

Commissioner Barnard asked for a motion to authorize the subcommittee to authorize the Center and the department to distribute the revised summary and develop a Q&A input site for comments, questions and suggestions. Distribution through the various sources, email, Listserv, website could be authorized and in place prior to the March meeting. Then at the March commission meeting the sub-committee could bring back information on the brochure development, design, costs, distribution and an outreach plan as to which

individuals will participate, and to what groups will these individuals speak in the process.

Diane McDaniel stated that once the commission delegates a subcommittee to act in a final capacity then that subcommittee's meetings become part of the open meetings act.

At the suggestion of Commissioner Carollo, the commission would direct the subcommittee to take action deemed necessary to begin the process to disseminate the information as long as it does not have budget implications.

Attorney McDaniel indicated that Commissioner Carollo's suggestion was a workable solution noting that the commission was authorizing the subcommittee to begin their work. The communication is not binding the commission as a whole; it is just getting the information out.

Jerry McDonald suggested a possible special commission meeting. This meeting could be done telephonically sometime after the first of the year.

Commissioner Barnard asked for a motion that the commission authorizes the subcommittee to distribute the revised summary through the electronic sources.

No further comments the motion carried.

Reviewing the planning session agenda items for 2006, Commissioner Barnard noted that at the March meeting the commissioners would continue to work on the brochure, finalize strategies on outreach, and any other items the commission feel should be on the agenda for the year 2006.

Commissioner Carollo asked the question if the commission should develop a plan of action on the WAC issue?

Jerry McDonald suggested this would be a good agenda item and by March the staff could have a proposal to bring to the commission meeting.

Bob Mitchell noted that the commission should provide an opportunity in the planning session to have a preliminary discussion about possible expenditures from the education account.

Commission Barnard asked for a motion to accept the March planning meeting agenda, which would include:

- Review and plan stakeholder work
- Review and plan WAC's for 18.85
- Discussion of Education Account
- Discussion of alternatives for RE Commission Account

No further discussion motion passed.

H. Washington Center for Real Estate Research

Glenn Crellin reviewed the meeting of the WCRER Board of Trustees. The Board met in Leavenworth to begin the process of developing a strategic plan for the Center. Although the plan is not complete, the trustees will adopt the plan at their next meeting. The highlights of the planning process are:

- Work on specific research priorities established by the trustees
- Establish a more diversified financial base
- Further refine the relationship between the Center and the academic program at WSU

Glen Crellin asked the commission for some guidance on the brokerage and business management classes. Did the commission want the center to continue pursuing the revision to the existing courses or wait? Over the past year Glenn Crellin met with the education providers. At that time they indicated they would get back to him with recommendations and none have responded to date.

Commissioner Suki Bazan attended the meeting with Glenn Crellin and noted there was considerable discussion on this issue with regard to the 18.85 revisions. The providers wanted to know how the courses would be impacted once the rewrite is complete.

Glen Crellin felt that the proposals included in the legislative proposals maintain the 30-hour brokerage management and the 30-hour business management courses as part of the required curriculum to get a managing broker's license. Glen Crellin indicated that providers would focus on those curriculums now that they are more secure that the courses themselves will remain in place after the revision.

In asking for a restatement of the problem by commission members, Glen Crellin stated that he wanted the real estate commission to give him direction on whether the curriculum review should be resuscitated for business management, and broker management, or based on the lack of feedback from the education providers that the decision be left until the 18.85 revision is in place.

Commissioner Barnard noted the proposal to postpone the curriculum review until the enactment of 18.85, and then review what is necessary to meet the criteria for education with the revisions in the law. The second option would be to do the review now. It was the consensus of the commission to postpone the review.

Commissioner Barnard called for a motion to request that the center defer any further development until instructed by the commissioners to proceed with review. It was at the suggestion of Natalie Danielson education provider, that because of the impending revision of the licensing law the plan should be tabled.

Commissioner Barnard noted the proposal to postpone the curriculum review until the enactment Commissioner Carollo made the motion that the WCRER defer any further work on the brokerage management and business management classes until further notice.

No further discussion the motion passed.

Glen Crellin stated the Growth Management Study approved at the September commission meeting was signed in November. As a result, work has begun in preparing for the study on the impact of the GMA.

Glen Crellin reviewed expenditures in the contract that expired in June 2005, noting the center was over budget when the contract ended. The problem is being resolved.

Clarifying this issue, Jerry McDonald stated that WSU forwarded a bill for approximately \$80,000 of which \$40,000 was for the previous biennium and the balance for the current biennium. Since the full amount of the contract, \$297,000 had already been paid, and the fiscal year had ended, the bill was returned to WSU. A statement with only charges for the current biennium will be forthcoming from WSU.

Glenn indicated at the September commission meeting the request was made to revise the proposal for the real estate licensing profile. If the commission approves the licensing survey profile, the questionnaire will be forwarded to all commissioners. The request made by Glen Crellin is that the commission approve the expenditure up to \$33,300 as specified in the proposal from the Real Estate Education Account to conduct a profile of real estate licensees.

A motion to approve the request, as stated by Glenn Crellin, to approve the expenditure for the profile study was made.

Discussion – when will it be complete, whom it will be available to and what is the target.

Glenn Crellin indicated that the executive summary of the report will be posted on the Center's website. The final report from the last survey was 145 pages. The Center could not afford to provide this at no charge. The Center will provide the opportunity for interested parties to purchase these reports at a minimal cost. The executive summary will be available to all who wish it at no charge.

No further discussion the motion passed.

I. Updates

- Jerry McDonald noted that the department has a new contract with our testing vendor – PROMISSOR. The department does not anticipate any changes in service.
- Sandy Spencer, Investigations Manager and Commission Paul Chiles attended the ARELLO Conference in Toronto. Paul made particular note of one session he attended that being auctions. Paul felt that auctions do represent a big part of what is ahead of the industry. Ebay was at the conference in force. Paul felt that

it was necessary for the department to investigate how in other states auctioneers are regulated but noted that the rules are very loose. Auctioneers are a potential minefield on how the real estate industry might conduct business in the future.

- Online renewals seem to be working very well. Renewal notices contain a password and make it very easy for the licensee to renew.
- Jerry noted that the department has a temporary hire that will aid in developing a newsletter. The preliminary concept will be a newsletter two times a year, and then the newsletter will be mailed to the broker to share with staff. From that point on the newsletter will be online. The expenses of a mail out would be prohibitive. The suggestion of licensees giving their email addresses to the department will require further study.

Commissioner Barnard suggested that the topic of emails be added to the March planning meeting. Prior to the meeting, the department with assistance from the attorney generals office might come up with suggestions as to how this might be accomplished. Email addresses present many problems in that the list becomes obsolete, thus creating a maintenance issue.

The broker is the key person to disseminate information. It is important to focus on the broker in getting the information out there.

Jerry McDonald noted that the commissioner's help would be needed in creating articles for the newsletter. The department regulates other professions, such as auctioneers, geologists, etc, so their board members could provide information for our newsletter.

- Jerry reviewed the survey results the department sent out in the fall. Some of the questions asked were:
 1. How did you contact the department?
 2. Who did you contact?
 3. Was your inquiry handled professionally?
 4. Was the staff knowledgeable and responsive?
 5. Customer satisfaction?
 6. How informed are you of changes in the industry?

The survey was mailed to the broker with the request that it be shared with salesperson staff and 2800 responses were received.

Commissioner Chiles asked Jerry McDonald to review what has happened with the Tape Ed advertising issue. Jerry noted that the department wrote them a letter asking them to stop and the department did receive a response from them. At this point they were issued a notice of correction to discontinue their practice.

Jerry noted that Sandra Spencer attended a presentation at the ARELLO conference on the Alabama Course Management Application Program. Instructors and schools put the course and hours of the students on the website and it is an advantage for all concerned.

The present system the department has is antiquated and a need for an updated system should be a consideration.

Commission Barnard asked Jerry McDonald what the department would like from the commission regarding Alabama's applications.

The commission asked Jerry to look into other states and how they accomplish their course management application program.

J. Budget

Jerry McDonald reviewed the budget.

- Currently the department is spending below their allotment for the fiscal year to date. Vacant positions result in savings.
- Fund balance for the real estate commission is growing as a result of increased licensees and licensees are not dropping off as in the past.
- The change of address fee is not reducing the fund balance as thought. It has caused some problems in that firms are changing their address multiple times.

There being no further business the meeting was adjourned.

Respectfully submitted,

Lee Malott
Administrator